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Attorneys for Plaintiff Tobias L. Millrood  
 and the Proposed Class in  
*Tobias v. Walmart.com USA LLC, et al.*  
 Case No. 09-cv-00399 JCS

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ANDREA RESNICK, GARY BUNKER, JOHN )  
 HALEY, AMY LATHAM, ERIC )  
 ROSLANSKY, and KEVIN SIMPSON, on )  
 behalf of themselves and all others similarly )  
 situated, )

Plaintiffs, )

v. )

WALMART.COM USA LLC, WAL-MART )  
 STORES, INC., and NETFLIX, INC., )

Defendants. )

Case No. 09-cv-00002 PJH

ADMINISTRATIVE MOTION TO  
 CONSIDER WHETHER CASES  
 SHOULD BE RELATED

1 **TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2 Pursuant to Local Rule 3-12, Plaintiff Tobias L. Millrood respectfully submits this  
3 administrative motion to consider whether a case filed in this District, *Millrood v. Walmart.com*  
4 *USA LLC, et al.*, Case No. 09-00399 JCS (“Millrood”) (filed January 28, 2009) should be related to  
5 another case filed in this District, *Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-  
6 00002 PHJ (“Resnick”) (filed January 2, 2009).

7 Pursuant to Local Rule 3-12(d)(2), Plaintiff states that *Millrood* involves the same  
8 Defendants as in *Resnick*. The cases involve similar factual allegations as both are proposed class  
9 actions on behalf of purchasers of online DVD rentals from Netflix, Inc. Both complaints are  
10 brought under sections 1 and 2 of the Sherman Antitrust Act of 1890, 15 U.S.C. §§ 1-2, and  
11 sections 4 and 16 of the Clayton Antitrust Act of 1914, 15 U.S.C. §§ 15 and 29, for damages and  
12 injunctive relief against Defendants Netflix, Inc., Wal-Mart Stores, Inc., and Walmart.com USA  
13 LLC.

14 Pursuant to Local Rule 3-12(a)(2), it appears likely that there will be duplication of labor  
15 and expense or the possibility of conflicting results if the cases are conducted before different  
16 Judges.

17 Given the similarities of these actions, assignment of these cases to a single Federal District  
18 Court Judge will conserve judicial resources and promote efficient determination of the actions  
19 while avoiding potentially conflicting results. Accordingly, Plaintiff Tobias Millrood respectfully  
20 requests that the action entitled *Millrood v. Walmart.com USA LLC, et al.*, be deemed related to  
21 *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, the first filed case in this District, which is  
22 presently assigned to the Honorable Phyllis J. Hamilton.

23 DATED: February 5, 2009.

24 HAGENS BERMAN SOBOL SHAPIRO LLP

25  
26 By /s/ Jeff D. Friedman  
27 JEFF D. FRIEDMAN

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Attorneys for Plaintiff  
TOBIAS L. MILLROOD

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 5, 2009, I electronically filed the foregoing with the Clerk  
3 of the Court using the CM/ECF system which will send notification of such filing to the e-mail  
4 addresses registered, as denoted on the attached Electronic Mail Notice List, and I hereby certify  
5 that I have mailed the foregoing document or paper via the United States Postal Service to the non-  
6 CM/ECF participants indicated on the attached Manual Notice List.

7  
8 /s/ Jeff D. Friedman  
9 JEFF D. FRIEDMAN  
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1 **DECLARATION OF SERVICE**

2 I, Pasha Durant, hereby certify that on this 5th day of February 2009, I caused a true and  
3 correct copy of the foregoing document to be served upon the agents and/or counsel who have not  
4 appeared in the case, for service of process for the parties listed below.

5 1. WALMART.COM USA LLC

6 c/o CT Corporation System, Registered Agent for Service of Process for WAL-MART  
7 STORES, INC.  
818 West Seventh St.  
Los Angeles, CA 90017

8 2. WAL-MART STORES, INC.

9 CT Corporation System, Registered Agent for Service of Process  
818 West Seventh St.  
Los Angeles, CA 90017

10 3. NETFLIX, INC.

11 Scott Sher  
12 Wilson Sonsini Goodrich & Rosati  
13 1700 K. St. N.W., 5th Floor  
Washington, DC 2006

14  
15 /s/ Pasha Durant  
16 PASHA DURANT  
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## Mailing Information for a Case 3:09-cv-00002-PJH

### Electronic Mail Notice List

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## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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## Mailing Information for a Case 3:09-cv-00399-JCS

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